

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION**

MANUEL PEREZ AGUILAR

VS.

**MERCER TRANSPORTATION CO., INC.
AND JAY DONALD STARK**

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§
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§
§
§

C.A. NO.

NOTICE OF REMOVAL

Defendants, Mercer Transportation Co., Inc. and Jay Donald Stark, through undersigned counsel, petitions this court pursuant to 28 U.S.C. §§ 1332, 1441, and 1446, for removal of this action currently filed in the 11th Judicial District Court of Harris County, Texas. In support of this petition, Defendant states as follows:

BACKGROUND

1. On December 19, 2017, Plaintiff, Manuel Perez Aguilar filed an Original Petition against Mercer Transportation and Jay Donald Stark, alleging personal injuries from a traffic incident between two tractor trailers. This Petition is styled *Manuel Perez Aguilar v. Jay Donald Stark and Mercer Transportation Co., Inc.*; Cause No. **2017-84242**; and was filed in the 11th Judicial District Court of Harris County, Texas.

Diversity of Citizenship

2. Plaintiff is a resident of Texas.
3. Defendant Jay Donald Stark is a citizen of the State of Colorado. Defendant, Mercer Transportation is a corporation organized under the laws of the State of Indiana with its principle place of business in Kentucky. Mercer Transportation consents to the removal of this action to Federal Court.

4. Based on the contention in paragraphs 2 and 3, there is complete diversity between the parties.

Basis for Removal Based on Diversity Jurisdiction

5. This cause may be removed pursuant to 28 U.S.C. Section 1441(a). “Any civil action brought in state court of which the District Courts of the United States have original jurisdiction, may be removed by the Defendant... to the District Court of the United States for the district and division embracing the place where such action is pending.” This court has jurisdiction over this matter under 28 U.S.C. Section 1332 because there is complete diversity between the parties and the amount in controversy is greater than \$75,000.00. Plaintiff has specifically alleged that damages exceed \$100,000.00 by contending that his lawsuit is not governed by Texas Rule of Civil Procedure 169¹. (See Plaintiff’s Original Petition).

Timely Filed

6. Defendant Mercer was served on December 28, 2017 and filed its Original Answer on January 18, 2018, in the 11th District Court of Harris County, Texas.

7. Defendant Jay Donald Stark was served on January 2, 2018 and filed his Original Answer on January 18, 2018, in the 11th District Court of Harris County, Texas.

8. Therefore, this Notice of Removal is filed with this Court within thirty (30) days of service of the initial pleading upon the removing Defendants, as required by 28 U.S.C. § 1446(b).

9. Defendants are entitled to remove this action to the United States District Court for the Southern District of Texas, Houston Division, where the state court action is currently on file.

10. Pursuant to 28 U.S.C. §1446(b)(2)(A), all Defendants who have been properly joined have consented to the removal of this action and are part of this removal.

¹ Rule 169 governs claims and is applicable when a party seeks \$100,000.00 or less.

Compliance With Notice Requirements

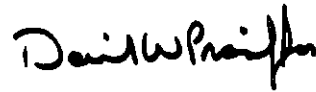
11. The District Clerk for Harris County, Texas, has been given written notice of the filing of this Notice of Removal.

12. Further and pursuant to 28 U.S.C. 1446(d), written notice of the filing of this instrument has been contemporaneously given to the Plaintiff. A true and correct copy of this Notice of Removal has been contemporaneously attached as an exhibit with a written notice of removal filed with the clerk of State Court.

CONCLUSION

Defendants, therefore, respectfully requests the removal of this action from the 11th Judicial District Court of Harris County, Texas.

Respectfully submitted,



David W. Prasifka
SDN: 7516
SBN: 16231700
2900 North Loop West, Suite 500
Houston, Texas 77092
Telephone: (713) 868-5560
Facsimile: (713) 864-4671
dwp@lorancethompson.com
Attorney for Defendants

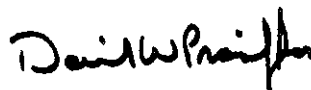
OF COUNSEL:

LORANCE & THOMPSON, P.C.

CERTIFICATE OF SERVICE

I hereby certify that on the 24th day of January, 2018, a true and correct copy of the foregoing document was provided to the following parties by mail, efile, courier service, or telefax transmission pursuant to the Federal Rules of Civil Procedure.

G. Crist Burger
SBN:03378625
6363 Woodway, Suite 725
Houston, TX 77057
gcristburger@gmail.com



David W. Prasifka